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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,179	01/28/2004	Jonathan Schneider	P69465US0	9853
136	7590	02/14/2006	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				KRISHNAMURTHY, RAMESH
ART UNIT		PAPER NUMBER		
3753				

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/765,179	SCHNEIDER, JONATHAN	
	Examiner Ramesh Krishnamurthy	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 - 12 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 - 7 and 10 is/are rejected.
- 7) Claim(s) 11 and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>07/19/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

This office action is responsive to communications filed 12/10/2005.

**Claims 1 – 12 are pending.**

1. Applicant's election without traverse of Species B in the reply filed on 12/15/2005 is acknowledged.

2. Claims 8 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 12/15/05. It is noted that in the communications filed 12/10/05, claims 8 is also claimed to be generic to both the non-elected species A (Figs. 1 – 4) and the elected species B (Figs. 5 – 7). However, Claim 8 recites adjustment means for the torsion spring of claim 5. The elected Species B lacks such adjustment means for torsion spring.

3. **Claims 1 – 7 and 10 – 12 are pending.**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4 – 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 35 40 264 A1 in view of Schutzer et al. (US 3,990,471).

The document DE '264 discloses a flap valve (2) for controlling air pressure within a protected space defined by walls (1), said flap valve comprising a valve frame (3) attachable to an opening made in said walls (1), valve flap (5) articulated at least

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indirectly to said frame and being subjectable to both sealing force which forces said valve against said frame and to an opening force which lifts a portion of the flap off said frame; said flap valve having a first position in which said protected space is sealed off from a contaminated environment, and a second position in which air from said protected space is allowed to escape into said environment via said opening.

The document DE '264 discloses the claimed invention with the exception of explicitly disclosing at least one spring at least indirectly attached to said valve flap and said valve frame.

Schutzer et al. discloses a flap valve comprising two torsion springs (9, 10) disposed in a plane parallel to the plane of the frame to which the flap (4) is attached for the purpose of providing a compact arrangement while ensuring a positive check position of the valve.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in DE '264 a flap with springs arranged as in Schutzer et al. for the purpose of providing a compact arrangement while ensuring a positive check position of the valve.

It is noted that screw (20) constitutes means for adjusting the spring force and thereby the opening force of the valve.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DE 35 40 264 A1 and Schutzer et al. as applied to claims 1, 2, 4 – 7 and 10 above, and further in view of Walton (US 5,494,244).

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The combination of DE'264 and Schutzer et al. as set forth above discloses the claimed invention with the exception of explicitly disclosing the frame to be composed of two juxtaposed plates attachable to opposite surface of the wall portions surrounding the opening.

Walton discloses (Fig. 4) an arrangement wherein an airflow control device comprising a mounting frame having two juxtaposed plates attachable to opposite surfaces of wall portions surrounding said opening by clamping said plates together, for the purpose of avoiding any mounting operations such as drilling to be performed on the enclosure wall.

It would have been obvious to one ordinary skill in the art at the time the invention was made to have provided in the combination of DE '264 and Schutzer et al. a mounting frame having two juxtaposed plates attachable to opposite surfaces of wall portions surrounding said opening by clamping said plates together, for the purpose of avoiding any mounting operations such as drilling to be performed on the enclosure wall, as recognized by Walton.

7. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

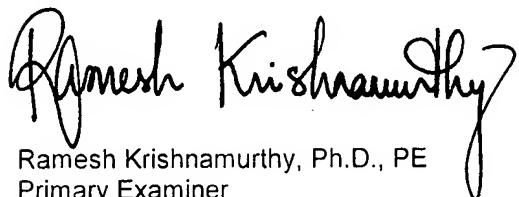
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 – 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
Art Unit 3753